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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,522	03/04/2002	Robert S. Block	033401-001	1099

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EXAMINER

COBY, FRANTZ

ART UNIT PAPER NUMBER

2161

DATE MAILED: 01/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/086,522

Applicant(s)

BLOCK ET AL.

Examiner

Frantz Coby

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 and 71-154 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 11-21, 41-44, 71-73, 80-116 and 123-133, 153-154 is/are rejected.
- 7) ☒ Claim(s) 5-10, 22-40, 74-79, 117-122 and 134-152 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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This is in response to applicant's amendment filed on August 02, 2004 in which claims 1-5, 8, 10-13, 16-18, 20-27, 30-32, 40-41 and 44 were amended and claims 45-70 were canceled; and amendment filed on August 26, 2004 in which claims 8, 9 and 32 were amended and claims 71-154 were added.

Status of Claims

Claims 1-44 and 71-154 are pending.

Applicant's arguments with respect to claims 1-44 have been considered but are moot in view of the new ground(s) of rejection. Also, newly added claims 71-154 are rejected below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 11-21, and 71, 80-90, 114, 123-133 are rejected under 35 U.S.C. 102(e) as being anticipated by Chasen et al. U.S. Patent no. 6,760,721.

As per claim 1, Chasen et al. disclose “a computer implemented method for adding metadata to a collection of data and first metadata wherein the first metadata are associated with the data” by providing a system and method of managing metadata data in which metadata is collected from various sources, added and maintained in a metadata database (See Chasen et al. Abstract). In particular, Chasen et al. discloses the claimed limitations of “identifying data in the collection based on the first metadata and one or more locations of the data and/or the first metadata in the collection” as a mechanism for selecting an audio track for playback (See Chasen et al. Figure 1; Col. 5, line 20-Col. 6, line 5). The Applicant should duly note in this case the metadata for three audio tracks that have the value classical in the genre field of the database are identified based on a first metadata genre or classical. Further, Chasen et al. disclose the claimed feature of “adding second metadata to the collection based on the identified data” by providing an add metadata process (Figure 2, component 218) through which a second metadata can be added in the metadata database (See Chasen et al. Figure 2, component 218; Col. 6, lines 7-30; Col. 16, line 41-Col. 17, line 67).

As per claims Claim 11-18, most of the limitations of these claims have been noted in the rejection of claim 1 above. In addition, Chasen et al. disclose the claimed features of “wherein the second metadata map the identified data into a spreadsheet” (See Chasen et al. Figure 1, component 130); “wherein the second metadata map the identified data into a database” (See Chasen et al. Figure 2, component 230; Col. 13,

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lines 45-62); "wherein the second metadata map the identified data to a flat file"; "outputting a data definition that defines a structure of the flat file"; "wherein the structure indicates locations of the mapped data within the flat file"; "wherein the data stream is in the form of a data output to a computer display screen" (See Chasen et al. Figure 1 and corresponding text); "wherein the data stream is in the form of a data output to a computer data port"; "wherein the data stream is in the form of a data output to a data storage device" (See Chasen et al. Col. 16, line 59-Col. 17, line 53).

As per claims Claim 19-21, most of the limitations of these claims have been noted in the rejection of claim 18 above. In addition, Chasen et al. disclose the claimed features of "wherein the data storage device is a Random Access Memory in a computer"; "wherein the data storage device is a disk drive" as a computer work station, which primarily incorporates a disk drive and a random access memory (See Chasen et al. Col. 6, lines 49-62); "wherein the data stream is generated at an Operating System level of a computer implementing the method" (See Chasen Col. 7, lines 1-7).

As per claim 71, most of the limitations of this claim have been noted in the rejection of claim 1. Applicant's attention is directed to the rejection of claim 1 above. In addition, Chasen et al. discloses "a machine readable medium comprising a computer program for causing a computation device to perform" all the limitations of claim 1 addressed above by providing a general purpose computer using one or more microprocessors, such as, for example, a Pentium processor, a Pentium II processor, a

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Pentium Pro processor, an xx86 processor, an 8051 processor, a MIPS processor, a Power PC processor, or an Alpha processor. Also, Chasen et al. disclose a computer runs an appropriate operating system, such as, for example, Microsoft.RTM. Windows.RTM. 3.X, Microsoft.RTM. Windows 98, Microsoft.RTM. Windows.RTM. NT, Microsoft.RTM. Windows.RTM. CE, Palm Pilot OS, Apple.RTM. MacOS.RTM., Disk Operating System (DOS), UNIX, Linux.RTM., or IBM.RTM. OS/2.RTM. operating systems (See Chasen et al. Col. 6, line 63-Col. 7, line 7).

As per claims Claim 80-87, most of the limitations of these claims have been noted in the rejection of claim 71 above. In addition, Chasen et al. disclose the claimed features of “wherein the second metadata map the identified data into a spreadsheet” (See Chasen et al. Figure 1, component 130); “wherein the second metadata map the identified data into a database” (See Chasen et al. Figure 2, component 230; Col. 13, lines 45-62); “wherein the second metadata map the identified data to a flat file”; “outputting a data definition that defines a structure of the flat file”; “wherein the structure indicates locations of the mapped data within the flat file”; “wherein the data stream is in the form of a data output to a computer display screen” (See Chasen et al. Figure 1 and corresponding text); “wherein the data stream is in the form of a data output to a computer data port”; “wherein the data stream is in the form of a data output to a data storage device” (See Chasen et al. Col. 16, line 59-Col. 17, line 53).

As per claims Claim 88-90, most of the limitations of these claims have been noted in the rejection of claim 87 above. In addition, Chasen et al. disclose the claimed features of “wherein the data storage device is a Random Access Memory in a computer”; “wherein the data storage device is a disk drive” as a computer work station, which primarily incorporates a disk drive and a random access memory (See Chasen et al. Col. 6, lines 49-62); “wherein the data stream is generated at an Operating System level of a computer implementing the method” (See Chasen Col. 7, lines 1-7).

As per claim 114, most of the limitations of this claim have been noted in the rejection of claim 1. Applicant's attention is directed to the rejection of claim 1 above. In addition, Chasen et al. discloses “a system comprising a computation device arranged to perform” all the limitations of claim 1 addressed above by providing a metadata management system including a computation device (See Chasen et al. Figure 2 and corresponding text).

As per claims Claim 123-130, most of the limitations of these claims have been noted in the rejection of claim 114 above. In addition, Chasen et al. disclose the claimed features of “wherein the second metadata map the identified data into a spreadsheet” (See Chasen et al. Figure 1, component 130); “wherein the second metadata map the identified data into a database” (See Chasen et al. Figure 2, component 230; Col. 13, lines 45-62); “wherein the second metadata map the identified data to a flat file”; “outputting a data definition that defines a structure of the flat file”;

wherein the structure indicates locations of the mapped data within the flat file”; wherein the data stream is in the form of a data output to a computer display screen” (See Chasen et al. Figure 1 and corresponding text); ‘wherein the data stream is in the form of a data output to a computer data port’; ‘wherein the data stream is in the form of a data output to a data storage device’ (See Chasen et al. Col. 16, line 59-Col. 17, line 53).

As per claims 131-133, most of the limitations of these claims have been noted in the rejection of claim 18 above. In addition, Chasen et al. disclose the claimed features of “wherein the data storage device is a Random Access Memory in a computer”; ‘wherein the data storage device is a disk drive’ as a computer work station, which primarily incorporates a disk drive and a random access memory (See Chasen et al. Col. 6, lines 49-62); ‘wherein the data stream is generated at an Operating System level of a computer implementing the method’ (See Chasen Col. 7, lines 1-7).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

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the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2-4 and 41-44, 72-73, 110-113, 115-116 and 153-154 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chasen et al. 6,760,721 in view of Carreiro et al. U.S. Patent no. 5,630,092.

As per claims 2-4, most of the limitations of these claims have been noted in the rejection of claim 1.

It is noted, however, Chasen et al. did not specifically detail the aspect of capturing the collection of data and first metadata as a data stream; storing the captured data stream; wherein the identified step is performed on the stored data stream; wherein the steps of capturing and identifying are performed at different locations" as recited on the instant claims. On the other hand, Carreiro et al. disclose the aforementioned claimed feature by providing a method and system for sharing a data stream between a first data storage in communication with a second data storage (See Carreiro et al. Abstract; Col. 3, lines 38-46).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify metadata management system of Chasen et al. wherein the management module (Figure 2 component 210) provided therein would have incorporated associated metadata to each record of the data stream for the purpose and stored in a storage device as taught by Carreiro et al. because that would have permitted data to be captured as data stream when transferred from one storage device to another storage device.

As per claims 41-44, most of the limitations of these claims have been noted in the rejection of claims 2-4. In addition, Carreiro et al. disclose the claimed features of 'providing the data stream from a target program to a transformation program, wherein the transformation program a) performs the steps of identifying and adding, and b) appears to the target program as a device driver' as sending a data stream between a first storage system in communication with a second data storage system (See Carreiro et al. Col. 3, lines 39-46; "wherein the transformation program is independent from the target program"; "wherein the transformation program and the target program are modules incorporated within a single program"; "wherein the data stream is in a form of data output to a computer printer" (See Carreiro et al. Col. 4, lines 33-45).

As per claims 72-73, most of the limitations of these claims have been noted in the rejection of claim 71 above.

It is noted, however, Chasen et al. did not specifically detail the aspect of capturing the collection of data and first metadata as a data stream; storing the captured data stream; wherein the identified step is performed on the stored data stream". On the other hand, Carreiro et al. disclose the aforementioned claimed features by providing a method and system for sharing a data stream between a first data storage in communication with a second data storage (See Carreiro et al. Abstract; Col. 3, lines 38-46).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify metadata management system of Chasen et al. wherein the management module (Figure 2 component 210) provided therein would have incorporated associated metadata to each record of the data stream for the purpose and stored in a storage device as taught by Carreiro et al. because that would have permitted data to be captured as data stream when transferred from one storage device to another storage device.

As per claims 110-113, most of the limitations of these claims have been noted in the rejection of claims 72-73. In addition, Carreiro et al. disclose the claimed features of "providing the data stream from a target program to a transformation program, wherein the transformation program a) performs the steps of identifying and adding, and b) appears to the target program as a device driver" as sending a data stream between a first storage system in communication with a second data storage system (See Carreiro et al. Col. 3, lines 39-46; "wherein the transformation program is independent from the

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target program”; “wherein the transformation program and the target program are modules incorporated within a single program”; “wherein the data stream is in a form of data output to a computer printer” (See Carreiro et al. Col. 4, lines 33-45).

As per claims 115-116, most of the limitations of these claims have been noted in the rejection of claim 114.

It is noted, however, Chasen et al. did not specifically detail the aspect of capturing the collection of data and first metadata as a data stream; storing the captured data stream; wherein the identified step is performed on the stored data stream. On the other hand, Carreiro et al. disclose the aforementioned claimed feature by providing a method and system for sharing a data stream between a first data storage in communication with a second data storage (See Carreiro et al. Abstract; Col. 3, lines 38-46).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify metadata management system of Chasen et al. wherein the management module (Figure 2 component 210) provided therein would have incorporated associated metadata to each record of the data stream for the purpose and stored in a storage device as taught by Carreiro et al. because that would have permitted data to be captured as data stream when transferred from one storage device to another storage device.

As per claims 153-154, most of the limitations of these claims have been noted in the rejection of claims 115-116. In addition, Carreiro et al. disclose the claimed features of "providing the data stream from a target program to a transformation program, wherein the transformation program a) performs the steps of identifying and adding, and b) appears to the target program as a device driver" as sending a data stream between a first storage system in communication with a second data storage system (See Carreiro et al. Col. 3, lines 39-46; "wherein the transformation program is independent from the target program"; "wherein the transformation program and the target program are modules incorporated within a single program"; "wherein the data stream is in a form of data output to a computer printer" (See Carreiro et al. Col. 4, lines 33-45).

Allowable Subject Matter

Claims 5-10, 22-40, 74-79, 91-109, 117-122, 134-152 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz Coby whose telephone number is 571 272 4017. The examiner can normally be reached on Monday-Saturday 3:00PM-10:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 571 272 4023. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Frantz Coby
Primary Examiner
Art Unit 2161

December 22, 2004